

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARTIN GONZALES,

Petitioner,

vs.

No. CIV 09-590 JH/LFG

GEORGE TAPIA, Warden, and
GARY K. KING, Attorney General
for the State of New Mexico,

Respondents.

**ORDER DENYING MOTION
FOR APPOINTMENT OF COUNSEL**

This is a proceeding on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, filed June 15, 2009.

Petitioner Martin Gonzales (“Gonzales”) sent a letter to the Court dated July 21, 2009, inquiring whether he qualifies for appointed counsel. This letter was filed and docketed as a Motion for Appointment of Counsel [Doc. 10].

Gonzales does not have appointed counsel representing him at present. He is advised that he has no right to appointed counsel to pursue a habeas corpus petition in federal courts, unless and until the Court finds that an evidentiary hearing is necessary. Swazo v. Wyoming Dep’t of Corr., 23 F.3d 332, 333 (10th Cir. 1994). This case has not reached that point. However, the Court may, in its discretion, appoint counsel for civil litigants such as Gonzales.

Factors the Court weighs when considering a motion for appointment of counsel include “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.” Williams v. Meese, 926 F.2d 994, 996 (10th Cir. 1991). *See also*, Engberg v. Wyoming, 265 F.3d 1109, 1121-22 (10th Cir. 2001). Accordingly, having reviewed the petition in light of the foregoing factors, the

Court finds that Petitioner understands the issues in the case and appears to be representing himself in an intelligent and capable manner.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Appoint Counsel [Doc. 10] is denied at this time.

Lorenzo F. Garcia
Chief United States Magistrate Judge